IN THE MATTER OF THE ARBITRATION PROCEEDINGS

BETWEEN

MONROE COUNTY COURTHOUSE
EMPLOYEES, LOCAL 138, AFSCME,
AFL-CIO,

Union,

and

ARBITRATOR'S AWARD
Case 172 No. 64443
INT/ARB-10379
Decision No. 31383-A

MONROE COUNTY,

Employer.

Arbitrator: Jay E. Grenig

Appearances:

For the Employer: Ken Kittleson
Personnel Director
Monroe County

For the Union: Daniel R. Pfeifer
Staff Representative
AFSCME Council 40

I. BACKGROUND

This is a matter of final and binding interest arbitration for the purpose of resolving a bargaining impasse between Monroe County ("County" or "Employer") and Monroe County Courthouse Employees, Local 138, AFSCME, AFL-CIO ("Union"). The County is a municipal employer. The Union is the exclusive collective bargaining representative for certain courthouse employees of the County.

On January 31, 2005, the Union filed a petition requesting that the Wisconsin Employment Relations Commission ("WERC") initiate arbitration pursuant to Wis. Stats. § 111.70(4)(cm)(6). On April 18, 2005, a member of the WERC staff conducted an investigation reflecting that the parties were deadlocked in their negotiations. The parties submitted their final offers to the investigator on or before June 16, 2005. On July 12, 2005, the WERC appointed the undersigned as the arbitrator.

An arbitration hearing was conducted on September 30, 2005. Upon receipt of the parties' briefs, the hearing was declared closed on October 26, 2005.

II. FINAL OFFERS

A. The Union

1. Article 16 - Include the language of the lay-off grievance settlement in the contract.

2. Article 25 - Duration - 1/1/05-12/31/06.

3. Wages: Effective 1/1/05 - 2% increase ATB
Effective 1/1/06 - 2% increase ATB

4. Continue Memorandums of Agreement currently in effect.

5. Provisions retroactive to 1/1/05, including fair share/dues deduction.

6. All provisions not addressed in the Union's Final Offer to remain as in the 2003-2004 collective bargaining agreement between the parties.

B. The Employer

1. WAGES AND HEALTH INSURANCE:

> 2005: 2% across-the-board wage increase effective 10/1/05, status quo on health insurance
>
> 2006: 2% across-the-board wage increase effective 1/1/06, add a $250 single/$500 family deductible to the current health insurance coverage effective 1/1/06

2. DURATION:

> January 1, 2005, through December 31, 2006

III. STATUTORY CRITERIA

111.70(4)(cm)

. . .

7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.

7g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

a. The lawful authority of the municipal employer.

b. Stipulations of the parties.

c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.

d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.

e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.

f. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment in the same community and in comparable communities.

g. The average consumer prices for goods and services, commonly known as the cost of living.

h. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

IV. POSITIONS OF THE PARTIES

A. The Union

The Union recognizes that wages for employees in the bargaining unit are generally within the average of the wages in the comparable counties. Because both of the parties are proposing two percent wage increases (although with different effective dates), the Union notes that the wages of employees as of January 1, 2006, will be the same. However, the Union says the fact that the Employer's 2005 wage increase is not retroactive to January 1, 2005, makes it unreasonable as it results in a wage increase of only 0.5%. The Union points out that all of the external comparable counties (with the exception of Jackson County) are receiving increases in excess of two percent for both 2005 and 2006.

The Union notes that the Employer granted elected officials a wage increase of three percent for both 2005 and 2006. Conceding that the financial impact of the increase was not large because of the limited number of elected officials, the Union questions what kind of messages this sends to the other County Employees, especially with regard to employee morale.

With respect to health insurance, it is the Union's position that this is not the time to implement the deductibles when the Employer is offering a substandard wage increase

and absolutely no quid pro quo for the proposed change in health insurance. The Union claims that at present the County is not out of line with the comparables with regard to deductibles and office visit co-pays. If the deductible is implemented, the Union explains that an employee could face a liability of $500 per year of .24 cents per hour. The Union argues that if the Employer's offer is implemented, only Monroe County and Sauk County will have office visit co-pays.

The Union notes that increases in the CPI clearly support its final offer.

With respect to dues deduction, the Union explains that there are two exceptions to the requirement that a public employer maintain the status quo on wages, hours, and conditions of employment during the contract hiatus period: (1) arbitration of grievances, and (2) deduction of dues/ fair share. The Union says the Employer is one of the few Wisconsin public employers that has refused to deduct dues/fair share during the hiatus period.

Pointing out that all but four of the comparable counties had higher levy rates for 2003 (to generate 2004 numbers), the Union says that all the counties granted 2005 wage increases of two percent or above effective January 1, 2005. Arguing that the Employer is in better shape for 2005 because it increased its levy to 96.39%, the Union claims the Employer can afford the Union's offer.

B. The Employer

The Employer argues that a property tax cap of 3.84% severely restricts it in light of the fact that it is housing prisoner out of county because its jail is inadequate and needs to be replaced, and while fuel and other business expenses continue to rise. Although its 2006 budget process had not been completed before briefs were due in this proceeding, the Employer says it is clear that reductions will be required to remain within the tax free parameters.

According to the Employer, the County spent much of 2004 in financial turmoil, at one point considering borrowing money just to meet its operating expenses. Although the Employer says it is not making an ability to pay argument, the Employer claims it has made a difficulty to pay argument.

Pointing out that County taxpayers were subject to a twelve percent tax increase for 2005 and additional increases for 2006 are inevitable, the Employer argues that the County taxpayer burden is onerous based on 2005 alone, without even considering the 2006 impact. The 2006 levy is capped by State law at 3.84%.

The Employer says the basis for its proposal for a two percent increase effective October 1, 2005 is that there were no changes in the health insurance benefits in 2005. Therefore, it contends the additional costs of remaining with the health insurance status quo were partially deducted from the wage increase for the year, delaying the effective

date of the 2005 pay increase to October 1. The Employer asserts that the two percent increase effective January 1, 2006, coincides with the addition of a health insurance deductible in the County's final offer.

It is the Employer's position that health insurance plan design changes are necessary to moderate the premium increases due to the County's financial situation. The Employer notes that it is not asking for an increase in the employee contribution that has remained constant for the past sixteen years. Observing that a County employee can be admitted to a hospital today, have a $10,000 hospital bill, and pay absolutely nothing out of pocket for those services.

The Employer says that a 276 percent health insurance premium increase in the past ten years (1,289 percent in the past twenty-five years) establishes a need for change. Asserting that its proposal doesn't go nearly far enough to resolve the problem, the Employer claims its proposal is a small step in the right direction. The Employer claims the problem is growing geometrically, while the County attempts to resolve it incrementally. The Employer contends the comparables overwhelmingly support its proposal to add a deductible to the health insurance plan. According to the Employer, premium rates for 2005 among the comparables do not vary enough to support the Union's argument to retain the status quo.

V. FINDINGS OF FACT

A. State Law or Directive (Factor Given the Greatest Weight)

In order for this factor to come into play, employers must show that selection of a final offer would significantly affect the employer's ability to meet State-imposed restrictions. *See Manitowoc School Dist.*, Dec. No. 29491-A (Weisberger 1999). No state law or directive lawfully issued by a state legislative or administrative officer, body or agency placing limitations on expenditures that may be made or revenues that may be collected by a municipal employer is at issue here.

The Governor's signing the State budget on July 25, 2005, resulted in a freeze, or at least rigorous limit on the ability to increase, property taxes in 2006. The freeze means that the Employer cannot exceed a 3.84% cap imposed by the budget.

B. Economic Conditions in the Jurisdiction of the Municipal Employer (Factor Given Greater Weight)

In order to make it through 2004, the record shows that the County Highway Department laid off 26 employees for the month of October 2004, and all departments were required to reach an additional $200,000 in budget restrictions to make it through the end of the year. By the end of 2004, the County Treasurer had one $500,000 certificate of deposit left in the general fund, although the County's auditor has recommended a minimum of $2.4 million in the general fund.

The County Board has approved a $12.2 million levy for property taxes payable in 2005, up fifteen percent from last year. The County's portion of the tax bill will be about twelve percent higher. The Employer is limited to a 3.84% property tax increase in 2006.

With a countywide health insurance bill of $3,696,813, the estimated additional 4.5% need to maintain the status quo in health insurance would cost taxpayers an additional $166,357 for 2006. This would consume over one-third of the amount the Employer can increase its levy in 2006.

C. The Lawful Authority of the Employer

There is no contention that the Employer lacks the lawful authority to implement either offer.

D. Stipulations of the Parties

While the parties were in agreement on many of the facts, there were no stipulations with respect to the issues in dispute. They have, however, reached agreement on a number of issues not in dispute here.

E. The Interests and Welfare of the Public and the Financial Ability of the Unit of Government to Meet these Costs

This criterion requires an arbitrator to consider both the employer's ability to pay either of the offers and the interests and welfare of the public. The interests and welfare of the public include both the financial burden on the taxpayers and the provision of appropriate municipal services. The public has an interest in keeping the Employer in a competitive position to recruit new employees, to attract competent experienced employees, and to retain valuable employees now serving the Employer. Presumably the public is interested in having employees who by objective standards and by their own evaluation are treated fairly.

The public has an interest in keeping the County in a competitive position to recruit new employees, to attract competent experienced employees, and to retain valuable employees now serving the County. Presumably the public is interested in having employees who by objective standards and by their own evaluation are treated fairly. What constitutes fair treatment is reflected in the other statutory criteria.

F. Comparison of Wages, Hours and Conditions of Employment

1. Introduction

The purpose in comparing wages, hours, and other conditions of employment in comparable employers is to obtain guidance in determining the pattern of settlements

among the comparables as well as the wage rates paid by these comparable employers for similar work by persons with similar education and experience.

Each of the parties' final offers proposes a two percent lift in each of the two calendar years of the contract. During 2005, the Union is proposing a two percent increase retroactive to January 1, 2005. The County is proposing a two percent increase effective October 1, 2005, resulting in a 0.5% wage increase for 2005. The Union and the County are both proposing two percent increases effective January 1, 2006.

The employee premium contribution for health insurance has remained constant at thirteen percent for the past sixteen years. During the last ten years, the total premium cost has increased by 276%. Office visit and emergency room copayments and prescription drug card copayments have been negotiated into the Employer's health insurance plans in recent years.

2. External Comparables

One of the most important aids in determining which offer is more reasonable is an analysis of the compensation paid similar employees by other, comparable employers. Arbitrators have also given great weight to settlements between an employer and its other employees. *See, e.g., Rock Village (Deputy Sheriffs' Ass'n)*, Dec. No. 20600-A (Grenig 1984).

The parties have agreed on the comparables to be used in this proceeding. They are: Buffalo County, Crawford County, Jackson County, Juneau County, La Crosse County, Pepin County, Richland County, Sauk County, Trempealeau County, Vernon County, and Wood County.

The evidence shows that the 2004 population in the comparable counties ranges from 109,616 (La Crosse County) to 7,568 (Pepin County). The Employer's 2004 population was 42,626, making it the third largest county among the comparables. The 2004 per capita value ranges from $83,902 (Sauk County) to $41,197 (Vernon County). The 2004 per capita value in the Employer was $41,843, placing it second from the bottom of the comparables. The 2004 unemployment rate in the Employer was 4.3%. Only two of the comparables had a lower unemployment rate than the Employer in 2004. The 2005 percentage increase net new construction changed 3.84%—the highest increase among the comparables.

The wages of the employees in the bargaining unit are within the average wage rates of the comparable counties. All the comparable counties have implemented their wage increases on the effective dates of their collective bargaining agreements. That is, all of the comparable Counties, except Jackson County are receiving increases in excess of two percent per year effective January 1, 2005, if settled. Jackson County is receiving two percent for 2005 and is negotiating a 2006 contract.

The comparable counties have a variety of premium contributions, deductibles, and co-pays. Premium contributions by employers in the comparable counties in 2005 range from 100% to 85% for single coverage and from 95% to 85% for family coverage. The Employer pays 87% of the premium for single and family coverage in Monroe County, placing it second from the bottom of the comparable counties in 2005. Only Vernon County contributed a smaller percentage of the employer's share of the premium in 2005.

The Employer requires its employees to pay co-pays for office visits. In 2005 all of the comparable counties except La Crosse County and Wood County provided health insurance plans without co-pays for office visits.

In 2005 deductibles in the plans with deductibles in comparable counties ranged from $100 to $500 for single coverage and from $200 to $1,000 for family coverage. In 2005, among the comparable counties, the Employer was the only county that does not presently offer at least one health benefit plan with a deductible. However, over one-half of the comparable counties provided health care options in 2005 without deductibles. The Employer's proposal for a deductible of $250 for single coverage and $500 for family coverage in 2006 is within the range of deductibles in the comparables.

3. Internal Comparables

The Employer has granted elected officials in the County a wage increase of three percent year for both 2005 and 2006. Non-union County employees were given a two percent wage increase for 2005 effective October 1, 2005, resulting in a 0.5% wage increase for 2005.

A number of the County bargaining units had not settled their contracts for 2005 and 2006 at the time the record closed in this proceeding. The Monroe County Professional Human Services Employees Union has proposed two percent increases for both 2005 and 2006. The Monroe County Professional Employees Union and the Human Services Clerical and Para-Professional Employees Unions have proposed two percent increases for 2005 and 2006. The Rolling Hills Union has proposed two percent increases for each year of the contract. The Monroe County Highway Employees Union has proposed two percent increases for each year of the contract. The Monroe County Dispatchers Association has proposed pay increases of three percent per year for 2005 and 2006. The Monroe County Professional Police Association has proposed an increase in wages of three percent effective January 1, 2005, two percent effective January 1, 2006, and two percent effective July 1, 2006. In each of these negotiations, the Employer has proposed an offer identical to the offer at issue here.

G. Changes in the Cost of Living

The governing statute requires an arbitrator to consider "the average consumer prices for goods and services, commonly known as the cost of living." While a number

of arbitration awards suggest that changes in the cost of living are best measured by comparisons of settlement patterns, such settlements, do not reflect "the average consumer prices for goods and services." Despite its shortcomings, the Consumer Price Index ("CPI") is the customary standard for measuring changes in the "cost of living." Settlement patterns may be based on a number of factors in addition to changes in the "average consumer prices for good and services."

Both offers provide for increases less than the increases in the CPI during the period covered by the contract. However, because the October 1, 2005, effective date of the Employer's 2005 wage proposal results in a 2005 wage increase of only 0.5%, the Employer's wage proposal compares less favorably with the changes in the cost of living than the Union's.

H. Overall Compensation Presently Received by the Employees

In addition to their salaries, employees represented by the Union receive a number of other benefits. While there are some differences in benefits received by employees in comparable employers, it appears that persons employed by the Employer generally receive benefits equivalent to those received by employees in the comparable employers.

The total cost of the Employer's final offer is $6,747,804. The total cost of the Union's final offer is $6,857,652.

I. Changes During the Pendency of the Arbitration Proceedings

The parties have not brought any changes during the pendency of the arbitration hearings to the Arbitrator's attention.

J. Other Factors

This criterion recognizes that collective bargaining is not isolated from those factors comprising the economic environment in which bargaining takes place. *See, e.g., Madison Schools*, Dec. No. 19133 (Fleischli 1982). Good economic conditions mean that the financial situation is such that a more costly offer may be accepted and that it will not be automatically excluded because the economy cannot afford it. *Northcentral Technical College (Clerical Support Staff)*, Dec. No. 29303-B (Engmann 1998). *See also Iowa Village (Courthouse and Social Services)*, Dec. No. 29393-A (Torosian 1999) (conclusion that employer's economic condition is strong does not automatically mean that higher of two offers must be selected or, conversely, a weak economy automatically dictates a selection of the lower final offer).

VI. ANALYSIS

A. Introduction

While it is frequently stated that interest arbitration attempts to determine what the parties would have settled on had they reached a voluntary settlement (*See, e.g., D.C. Everest Area School Dist. (Paraprofessionals)*, Dec. No. 21941-B (Grenig 1985) and cases cited therein), it is manifest that the parties' are at an impasse because neither party found the other's final offer acceptable. Realistically, if the parties reached a negotiated settlement, the final resolution would probably be the result of compromise and the outcome would be contract provisions somewhere between the two final offers here. The arbitrator must determine which of the parties' final offers is more reasonable, regardless of whether the parties would have agreed to that offer, by applying the statutory criteria.

Although the Employer's offer does not expressly address retroactivity, the Employer's offer does specify the effective dates of its changes in wages and in health insurance benefits. Accordingly, the issue of retroactivity is not material in this arbitration proceeding.

The issue raised by the Union's proposal relating to layoff grievance settlements has been resolved by the parties. Consequently, that issue has no bearing on the outcome of this proceeding.

B. Fair Share/Dues Deduction

The Union's proposal that the contract provisions be retroactive to January 1, 2005, including fair share/dues deduction is in dispute. The Employer stated at the arbitration hearing that the dues deduction/fair share provision would not be retroactive but would resume upon the receipt of the award. However, both proposals provide that the new contract will be effective January 1, 2005. This suggests that provisions such as dues deductions and fair share will be or should be effective beginning January 1, 2005.

Sauk County v. Wisconsin Employment Relations Commission, 165 Wis.2d 406, 410, 477 N.W.2d 267, 269 (1991), is instructive. In that case, the Wisconsin Supreme Court ruled "fair-share fees and union dues are economic items that should be given retroactive effect. The Court stated that:

> [T]he language of the agreement does not contradict a finding that the fees and dues were to be applied retroactively. The agreement's duration clause stated that it was to take effect "as of the first day of January, 1985, and shall remain in full force and effect through the 31st day of December 1985 . . . ." The agreement also contained a provision which required the county to deduct fair-share fees and union dues "once each month. This language. . . .

> The county contends that our decision in *Berns* [*v. WERC*], 99 Wis.2d 252, 299 N.W.2d 248 [(1980], requires that the parties bargain for and reach an agreement on retroactivity of fair-share fees before they may be deducted. We do not agree. The issue in *Berns* was whether or not a fair-share provision in a collective bargaining agreement may be applied retroactively. *Id.* at 254, 299 N.W.2d 248. Nothing in the language of *Berns* mandates that the parties to a fair-share provision specifically bargain for the retroactivity of the provision before it may be applied retroactively.
>
> In fact, our language in *Berns* supports the WERC's finding of retroactivity. In particular, when we addressed the policy behind fair-share fees, we stated:
>
> > The availability of the fair-share device as protection against "free-loaders" who benefit from the efforts of the bargaining representative but who, being nonunion members, do not pay regular union dues is important in light of the duty imposed by statute upon the certified majority representative to bargain collectively on behalf of all unit members.
>
> *Id.* at 264, 299 N.W.2d 248. We reaffirm this holding and state that this policy applies with equal force today. Because the union represented all the members in the bargaining unit here during the entire term of the contract, it is rational to require that all members of the unit pay for the representation during the entire term.
>
> The WERC's decision on the retroactivity of fair-share fees and union dues was rational. Therefore, we defer to it and hold that fair-share fees and union dues are economic items that should be given retroactive effect.

165 Wis.2d at 417-419, 477 N.W.2d at 272-273.

For the foregoing reasons, the Union's offer with respect to the retroactivity of dues/fair share is more reasonable than the Employer's.

C. Wage Increases

The Employer has not made an inability to pay argument, but it says that has serious financial problems. *See Kenosha County (Correctional Officers)*, Dec. No. 30707-A (Weisberger 2004) ("documented financial problems facing [Kenosha] County are real and must be taken into account, whether they fall under 111.0(cm)(7), (7g), or (7r)"). Although there is little doubt that the Employer has genuine fiscal concerns, the evidence

does not disclose that the Employer's economic situation is worse than that of the comparable counties. Seven of the comparables had levy rates higher than Monroe County. In contrast to the comparable counties, Monroe County has relatively low unemployment and is experiencing a modest building boom. In addition to property tax receipts, the Employer enjoys the economic impact of the approximately $780 million from Fort McCoy. Monroe County raked third among the comparables in increase in sales tax revenue for 2004.

The parties' wage increases provide the same lift at the end of each of the two years, although under the Union's offer the employees will receive more money in wages the first year. The wage rates of employees in the bargaining unit are generally within the average of the wages in the comparables. However, the evidence shows that all of the external comparables are receiving increases equal to or in excess of two percent for 2005 and 2006. Not one of the comparable counties gave a wage increase less than two percent for 2005. Thus, the Employer's wage proposal does not compare favorably with the wage increases in the comparable counties.

Arbitrators have not looked favorably on economic provisions in proposals that are not retroactive to the effective date of the contracts. In *City of Tomah*, Dec. No. 31083-A (Yaeger 2004), Arbitrator Yaeger expressed concern that an economic provision in the union's offer was not retroactive to the effective date of the contract.

For these reasons, the Union's offer making the 2005 wage rate the same date as the effective date of the collective bargaining agreement is more reasonable than the Employer's.

D. Health Insurance

The evidence shows that the Employer has experienced, as have other private and public sector employers, dramatic increases in health insurance costs. This creates a major financial problem for both employers and employees, with no satisfactory solution in sight. In the meantime, employees in the public and private sectors are assuming an increased portion of the costs through co-insurance, deductibles, and co-pays.

Unfortunately, there are no simple solutions. The Employer cannot continue to absorb increasing health benefit costs and employees who need health benefits cannot afford to pick up these costs. While cost sharing is inescapable, ways must be found to contain and control these costs. Arbitrator Weisberger recognized this in *Kenosha County (Jail Staff)*, Dec. No. 30797-A (Weisberger 2004), in which she wrote:

> In this area of rapidly escalating health costs, which are producing a spreading crisis throughout our nation, it is not unreasonable to expect that all County employees, including members of this bargaining unit, will absorb some of the increases for their health care. It is also not unreasonable that the County wishes its employees to be covered by a health plan

> that promotes turning patients into knowledgeable and cost-conscious consumers of health care services. Whether this consumerism approach will become a significant key to controlling future health care costs is yet to be determined but steps taken in this direction hold out some promise.
>
> In light of rapidly rising costs for health care services and prescription drugs the County's effort to enlist assistance from all its employees to help control this large—and rapidly escalating—County budget item is a common route taken by many public as well as private sector employers who continue to provide the bulk of funding for these key job benefits. (Given the costs involved, it is no longer appropriate to consider this benefit a "fringe benefit.") Given the very high cost of health care . . . the County would be remiss if it failed to explore seriously ways to contain at least some of its rapidly rising health care expenditures.

Arbitrators generally hold that a party proposing a change in the status quo is required to offer justification for the change and to offer a quid pro quo to obtain the change. *See, e.g.*, *Middleton-Cross Plains School Dist.*, Decision No. 282489-A (Malamud 1996). Arbitrator Malamud has explained:

> Where arbitrators are presented with proposals for a significant change to the status quo, they apply the following mode of analysis to determine if the proposed change should be adopted: (1) Has the party proposing the change demonstrated a need for the change? (2) If there has been a demonstration of need, has the party proposing the change provided a quid pro quo for the proposed change? (3) Arbitrators require clear and convincing evidence to establish that 1 and 2 have been met.

A number of arbitrators have concluded that the undisputed economic impact of rising health insurance costs has reduced the employers' burden of establishing a traditional quid pro quo where health insurance benefits are at issue. In *Village of Fox Point*, Dec. No. 30337-A (Petrie 2002), Arbitrator Petrie stated:

> [T]he spiraling costs of providing health care insurance for its current employees is a mutual problem for the Employer and the Association . . . . In light of the mutuality of the underlying problem, the requisite quid pro quo would normally be somewhat less than would be required to justify a traditional arms-length proposal to eliminate or modify negotiated benefits or advantageous contract language.

See also Pierce County (Human Services), Dec. No. 28186-A (Weisberger 1995) (where employer has shown it is paying increased health-care costs, its burden to provide quid pro quo for health care changes is reduced significantly); *Marquette County (Highway Dept.)*, Dec. No. 31027-A (Eich 2005) (same); *City of Marinette*, Dec. No. 30872-A

(Petrie 2004) (same); *City of Onalaska*, Dec. No. 30550 (Engmann 2003) ("So it goes almost without saying that, with limited budgets caused by cutbacks in state aid and decreases in other revenues, a municipal employer can easily show that it has a legitimate problem of paying the increased and skyrocketing cost of health insurance premiums.").

Although the burden of providing quid pro quo for requiring employees to pay an increased share of health insurance costs is reduced, it is not eliminated. The Employer here fails to even give a modicum of quid pro quo. To the contrary, it proposes increases in employee health insurance costs while, at the same time, proposing a wage increase of only 0.5% for 2005. The Employer's wage proposal compares unfavorably with those in the comparable counties and with increases in the cost of living.

The evidence discloses that the parties have made efforts over the past few years to share the pain of the cost of health insurance increases. Co-pays were instituted several years ago. The amount of the co-pays was increased in the last contract. The record shows that, taking into account co-pays and premium contributions, the County employees pay at least as much, if not more, of the cost of health insurance than employees in the comparable counties. Although the other comparable counties require deductibles in some of their plans, most of those counties also provide plans without deductibles. Unfortunately, the choices presented in this proceeding are not very attractive. The Union insists on maintaining the status quo, while the Employer simply seeks to shift more of the cost of health insurance to employees (while providing only a 0.5% wage increase for 2005). There is no evidence that the parties have worked together to seek a mutually beneficial solution. The parties need to consider solutions that reduce the cost of insurance or at least mitigate premium increases. Other parties have explored wellness programs and incentives for using health insurance wisely. *See, e.g., Milwaukee Bd. of School Directors,* Dec. No. 31105 (Grenig 2005) (although the parties could not reach agreement, they explored a number of creative solutions to the health insurance problem that are described in the award).

Consideration of health insurance benefits in the comparable counties is relevant in this proceeding. In *Monticello School Dist. (Support Staff)*, Dec. No. 31029-A (Schiovoni 2005), the arbitrator wrote:

> [W]ith respect to wages and health insurance, these are the two factors that drive the labor market. Employees seek or avoid employment with certain public employers based upon wages offered and health insurance packages available to the employee and/or his/her family. Often, it is health insurance benefits alone that dictate selection of employment in one district over that in another. As Arbitrator Torosian observed, "regardless of organizational status, employers are competing for the same employees. The marketplace is the marketplace, regardless of how determined."

See Rio School (Support Staff), Dec. No. 30092-A (Torosian 2001). As far as wages and health benefits are concerned, it is immaterial whether the comparable employers are unionized. *See Cameron School Dist. (Support Staff)*, Dec. No. 27562-A (Gundermann 1993); *Benton School Dist. (Auxiliary Personnel)*, Dec. No. 24812-A (Baron 1988); *Green Bay School Dist. (Substitute Teachers)*, Dec. No. 21321-A (Weisberger 1984); *Kenosha Unified School Dist. (Substitute Teachers)*, Dec. No. 19916-A (Kerkman 1983); *Montello School Dist.* Dec. No. 19955-A (Briggs 1983); *Wautoma Area School Dist.*, Dec. 20338-A (Gundermann 1983).

The Employer pays 87% of the premium for single and family coverage in Monroe County, placing it second from the bottom among the comparable counties in 2005. Only Vernon County contributed a smaller percentage of the employer's share of the premium in 2005. The Employer requires its employees to pay co-pays for office visits while, in 2005, nearly all the comparable counties provided health insurance plans without co-pays for office visits.

In 2005 deductibles in the plans with deductibles in comparable counties ranged from $100 to $500 for single coverage and from $200 to $1,000 for family coverage. In 2005, among the comparable counties, the Employer was the only county that does not presently offer at least one health benefit plan with a deductible. However, over one-half of the comparable counties provided health care options in 2005 without deductibles. The Employer's proposal for a deductible of $250 for single coverage and $500 for family coverage in 2006 is within the range of deductibles in the comparables.

Considering the Employer's 2005 wage increase proposal for a 0.5% increase and the health insurance choices given employees in the comparable counties, it is concluded that the Union's health insurance proposal maintaining the status quo is more reasonable than the Employer's.

E. Conclusion

Although the Employer has fiscal concerns, its fiscal condition does not appear to be significantly worse than that of the comparable counties. The Union's 2005 wage proposal is substantially closer to the wage increases in the comparable counties, and it is substantially closer to the increase in the cost of living as measured by the CPI. The Union's proposal regarding retroactivity of the dues/fair share provision is consistent with the public policy articulated by the Wisconsin Supreme Court. Most significantly, the Employer's proposal regarding health insurance, while attempting to respond to the health insurance crisis, does not result in insurance benefits that compare favorably with those in the comparable counties. In addition, the health insurance proposal increasing employee health insurance costs is coupled with a 2005 wage proposal resulting in a 0.5% wage increase for 2005 (although with a two percent lift for the year). Accordingly, under the Employer's proposal employees would be paying $250 to $500 more in 2006 for health insurance while receiving a 2005 wage increase significantly less than that re-

ceived by employees in the comparable counties. For these reasons, the Union's offer is more reasonable than the Employer's.

VII. AWARD

Having considered all the applicable statutory criteria, all the relevant evidence and the arguments of the parties, it is concluded that the Union's final offer is more reasonable than the Employer's final offer. The parties are directed to incorporate into their collective bargaining agreements the Union's final offer.

Executed, this seventeenth day of December 2005.

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Jay E. Grenig